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| EXAMINER | |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/735,439 | BAR-TANA, JACOB | |
| | Examiner | Art Unit | |
| | LESLIE A. ROYDS | 1614 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *28 August 2008 and 02 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *29-42 and 44-54* is/are pending in the application.

4a) Of the above claim(s) *34,35,40,41,47,48,53 and 54* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *29-33,36-39,42,44-46 and 49-52* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *22 May 09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

**Claims 29-42 and 44-54 are presented for examination.**

Applicant's Amendment filed August 28, 2008 has been received and entered into the present application. Pursuant to the notice dated November 28, 2008, the reply filed August 28, 2008 was non-compliant. Applicant's subsequent reply filed March 2, 2009 has also been received and entered into the present application.

Applicant's Information Disclosure Statement (IDS) filed May 22, 2009 (two pages total) has been received and entered into the present application. As reflected by the attached, completed copy of form PTO-1449, the Examiner has considered the cited references.

Claims 29-42 and 44-54 remain pending. Claims 34-35, 40-41, 47-48 and 53-54 remain withdrawn from examination pursuant to 37 C.F.R. 1.142(b). Claims 29-33, 36-39, 42, 44-46 and 49-52 remain under examination. Claims 29, 36 and 42 are amended.

Applicant's arguments, filed August 28, 2008 and March 2, 2009, have been fully considered. Rejections not reiterated from previous Office Actions are hereby withdrawn. The following rejections are either reiterated or newly applied. They constitute the complete set of rejections presently being applied to the instant application.

### *Request for Examination of Claims 34-35, 40-41, 47-48 and 53-54*

Applicant again requests rejoinder and examination of claims 34-35, 40-41, 47-48 and 53-54, stating that Applicant is entitled to have these claims rejoined and allowed one the generic claim is found allowable. Applicant submits that the claim amendments and remarks render the generic claims allowable and requests that the withdrawn claims also be rejoined and allowed.

Applicant's request has been carefully considered, but is again respectfully denied. Applicant is reminded that he is only entitled to examination of additional species outside of the specific species

elected for examination when the generic claim is found allowable. Please see 37 C.F.R. 1.141(a). In the instant case, the instant generic claims remain rejected and have not been found to be allowable due to the various rejections over the elected species of 3,3,14,14-tetramethyl-hexadecane-1,16-dioic acid. For these reasons, the generic claims are not allowable and Applicant is, therefore, not entitled to examination of additional species and/or rejoinder and allowance of the withdrawn claims.

Accordingly, Applicant's request for examination of claims 34-35, 40-41, 47-48 and 53-54 is clearly not proper at this time and is denied for the reasons explained *supra*.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 29-33, 36-39, 42, 44-46 and 49-52 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Russell et al. ("Hypolipidemic Effect of β,β'-Tetramethyl Hexadecanedioic Acid (MEDICA 16) in Hyperlipidemic JCR:LA-Corpulent Rats", *Arteriosclerosis and Thrombosis*, 1991; 11:602-609), citing to Bar-Tana ("Long Chain Dicarboxylic Acids: Hypolipidemic, Antiobesity and Antidiabetic Activity", New Antidiabetic Drugs, 1990) to show a fact, in view of Hertz et al. ("Mode of Action of Peroxisome Proliferators as Hypolipidemic Drugs", *Journal of Biological Chemistry*, 1995) and Ferrannini et al. ("Hyperinsulinemia: The Key Features of a Cardiovascular and Metabolic Syndrome", *Diabetologia*, 1991), each already of record, for the reasons of record set forth at p.5-10 of the previous Office Action dated February 25, 2008, of which said reasons are herein incorporated by reference.

*Response to Applicant's Arguments*

Applicant traverses the instant rejection, stating that the results presented in Tables 3 and 5 of Russell et al. are inconsistent because Table 3 demonstrates a decrease in the total cholesterol, but Table 5 presents an increase in the total cholesterol. Applicant relies upon Exhibits B-F to demonstrate that treatment with MEDICA 16 allegedly causes a decrease in HDL levels and concludes that the results shown in Table 5 of Russell et al. are either "a mistake" (p.16, Remarks) or "is at most a very particular case of female JCR:LA-corpulent rats" (p.16, Remarks) and asserts that this is in no way predictive of what will happen in other rats, male rats in the same model, other rodents or even humans. Applicant further alleges that the MEDICA 16 treatment resulted in an increase in LDL levels and, thus, teaches away from using MEDICA 16 for treating metabolic syndrome or dyslipoproteinemia. Still further, Applicant argues that Hertz et al. is not directed to a method of treating dyslipoproteinemia using a substance leading to an increase in HDL and, therefore, is not relevant to the obviousness of the instant invention. Applicant further argues that the definition of metabolic syndrome found in Ferrannini et al. is inaccurate and relies upon Exhibits A and H to demonstrate that a patient must have three or more risk factors to be considered as having metabolic syndrome and the instant claims require that a patient with Syndrome X (i.e., metabolic syndrome) must have more than one of the four parameters listed. Applicant submits that the treatment of only a single parameter would not be appropriate for treating metabolic syndrome and relies upon Exhibits I and J in support of his position. Lastly, Applicant alleges that the statement by Russell et al. that the efficacy of MEDICA 16 in JCR:LA-corpulent rat suggests its use in the treatment of obese, insulin-resistant, hypertriglyceridemic syndrome is unsupported because Russell et al. teaches that MEDICA 16 treatment did not have an effect on glucose tolerance or insulin response in the treated rats.

Applicant's traversal has been fully and carefully considered, but fails to be persuasive.

Firstly, Applicant's argument that the results presented in Tables 3 and 5 of Russell et al. are inconsistent because Table 3 demonstrates a decrease in the total cholesterol, but Table 5 presents an increase in the total cholesterol is both unpersuasive and not a point well taken. Russell et al. explicitly states at Table 5 that, "*These data are from a group of rats separate from those in Table 3, four rats 3 months old in each group.*" Please see the text underneath Table 5 at p.606. As a result, Applicant's allegation that these results presented in Russell et al. are inconsistent is clearly erroneous because the data presented in Table 5 is from a group of rats that is both different and separate from those studied and summarized in Table 3. Note also, for the record, that though Applicant continues to focus on the fact that the whole serum total cholesterol as presented in Table 5 demonstrates an increase in total cholesterol, this is also unpersuasive for two reasons: (1) the standard deviation of the control group clearly encompass the total cholesterol value of the MEDICA 16 group when the margin of error is taken into account and, thus, the control group and the MEDICA 16 group are not significantly different from one another with regard to total cholesterol and (2) the table clearly states that the difference in whole serum total cholesterol between both the control group and the MEDICA 16 group was *statistically not significant*. Accordingly, it is clear that Russell et al. did not acknowledge such a difference between the control group and the MEDICA 16 group as summarized in Table 3 to provide enough information to draw the conclusion that there was actually a significant difference in whole serum total cholesterol between the two groups.

Secondly, Applicant's reliance upon Exhibits B-F to demonstrate that treatment with MEDICA 16 allegedly causes a decrease in HDL levels are unimpressive. Regarding Exhibits B, D and E, Applicant submits that each reference demonstrated a reduction in total cholesterol and then alleges that, since the HDL fraction is the main lipid fraction in total cholesterol, then it would be necessarily assumed that such a reduction in total cholesterol is also reflected as a corresponding reduction in HDL levels. This, however, is Counsel's speculation. Notably, none of Exhibits B, D and E quantifies the particular

fractions that comprise the total cholesterol, so his prediction or assumption as to what fractions may or may not be also reduced is an unsupported allegation and does not take the place of evidence in the record. Statements of this nature are unsupported allegations and are clearly unpersuasive in accordance with the guidance provided at MPEP §2145, which states, "The arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997)".

Regarding Exhibits C and F, Applicant submits that each reference teaches both a reduction in total cholesterol and a concomitant reduction in HDL cholesterol. However, while this may very well be true (i.e., in that both Exhibits C and F do demonstrate a reduction in both total cholesterol and HDL cholesterol), it remains that the studies of MEDICA 16 presented in both Exhibits C and F are directed to the treatment of *different animal models with MEDICA 16*, i.e., not the JCR:LA-corpulent rat as studied in Russell et al. In fact, all of Exhibits B-F are directed to the treatment of distinctly different animal models with MEDICA 16 than that JCR:LA-corpulent rat model used in Russell et al. In light of this important observation, Applicant's extensive discussion and attempts to discredit the findings of Russell et al. by relying on Exhibits B-F to allege that treatment with MEDICA 16 really causes a decrease in both total cholesterol *and* HDL cholesterol are very clearly unpersuasive because each of these references is directed to the activity of MEDICA 16 in a different animal model than that used in Russell et al. One of ordinary skill in the art at the time of the invention would very well have *reasonably expected* that the administration of MEDICA 16 to distinctly different types of animals (such as, e.g., the JCR:LA-corpulent rat as in Russell et al. versus a *normal* rat as in Exhibit C) would have resulted in different effects, including different effects on both total cholesterol and HDL cholesterol, absent factual evidence to the contrary. This is because an animal model that has been bred to exhibit a particular disease state would be expected to demonstrate a different therapeutic effect from that of a normal animal model or one that has been bred to exhibit a distinctly different disease state. Accordingly, Applicant's reliance

upon the data shown in Exhibits B-F is unimpressive in (1) establishing that the results of Russell et al. are "a mistake" (p.16, Remarks) as alleged by Applicant, (2) establishing that the results of Russell et al. are not predictive of its effects in a human model exhibiting the same disease state or (3) establishing the nonobviousness of the instantly claimed subject matter.

Thirdly, Applicant alleges that treatment with MEDICA 16 resulted in an increase in LDL levels and, thus, teaches away from using MEDICA 16 as a treatment for metabolic syndrome or dyslipoproteinemia. This is unpersuasive. Though Russell et al. does report in Table 5 a modest increase in LDL levels, it is noted that Applicant's instant claims state that treatment of metabolic syndrome or dyslipoproteinemia by administering MEDICA 16 is effected via increasing plasma levels of HDL cholesterol, which is an effect that is clearly disclosed by Russell et al., at least by Table 5 of the reference. As a result, since this effect is clearly provided for in Russell et al., the reference would appear to provide a *prima facie* case that either metabolic syndrome and/or dyslipoproteinemia is treated via this plasma HDL-increasing effect.

In fact, Applicant's claims are silent as to any required effect on LDL cholesterol via treatment with MEDICA 16 in order to effectively treat dyslipoproteinemia. Moreover, the very fact that Applicant's instant claims require only an increase in plasma HDL cholesterol to treat either metabolic syndrome or dyslipoproteinemia (see instant claims 29 or 36) is clear evidence that the effect on LDL cholesterol is not pertinent to Applicant's alleged efficacy of MEDICA 16 in treating either metabolic syndrome or dyslipoproteinemia. Furthermore, Applicant's remarks provide no evidence to support his allegation that the modest increase in LDL levels observed in Russell et al. is of such significance so as to negate the efficacy of MEDICA 16 in reducing HDL cholesterol and thereby treating metabolic syndrome and/or dyslipoproteinemia (as implied by Applicant's own claims; see, e.g., claims 29 or 36). Accordingly, these remarks are clearly unpersuasive.

Fourthly, Applicant argues against the application of Hertz et al., stating that the reference is not

directed to a method of treating dyslipoproteinemia using a substance leading to an increase in HDL and, therefore is not relevant to the instant finding of obviousness of the instant rejection. This is also unpersuasive. Applicant has considered Hertz et al. individually and not in combination with the other references as it was applied. Applicant is reminded that rejections made under 35 U.S.C. 103(a) are based upon the combination of references. As a result, focusing solely on the discrete teachings of each of the cited references (i.e., in this case, considering Hertz et al. without considering it as it was combined with the cited primary reference to Russell et al.) is tantamount to examining the reference inside of a vacuum and fails to be persuasive in establishing non-obviousness because it is the *combined* teachings that are the basis for a proper conclusion of obviousness, not each individual reference alone. In other words, it must be remembered that the references are relied upon in combination and are not meant to be considered separately. To properly conclude obviousness of an invention *does not require the claimed invention to be expressly suggested in its entirety by any one single reference under 35 U.S.C. 103(a).* Rather, the test is *what the combined teachings* of the references would have suggested to those of ordinary skill in the art. Please reference *In re Young*, 403 F.2d 754, 159 USPQ 725 (CCPA 1968) and *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Fifthly, Applicant argues against the definition of "metabolic syndrome" as described by the cited reference to Ferrannini et al., stating that it is inaccurate, and relies upon Exhibits A and H in support of this allegation, as well as Exhibits I and J to support his allegation that the treatment of a single parameter of Syndrome X is not appropriate for treating metabolic syndrome *per se*. This allegation is, and will remain, unpersuasive because Applicant himself has admitted on the record that the treatment of *any one of these conditions* listed in the claims would result in the treatment of Syndrome X. Please see Applicant's remarks at p.7 of the response filed April 11, 2006, which states, "As disclosed in the instant specification, this invention relates to novel methods of treating Syndrome X, which comprises some or all of dyslipoproteinemia (which itself manifests hypercholesterolemia-hypertriglyceridemia, and low

HDL-cholesterol), obesity, impaired glucose tolerance, essential hypertension and thrombogenic/fibrinolytic defects (see, for example, page 10, last full paragraph, of the subject specification). ***Therefore, successful treatment of any of these conditions would result in improvement of Syndrome X***." Accordingly, Applicant's attempts to now allege that more than one or more symptoms must be treated in order to treat Syndrome X repudiates his earlier admission and is not persuasive. Thus, it is maintained that the very fact that Russell et al. teaches that MEDICA 16 is effective for reducing plasma triglycerides and plasma cholesterol and increasing HDL cholesterol would have been reasonably suggestive of its efficacy in treating Syndrome X, which, as taught by Ferrannini et al., is characterized by the concomitant occurrence of any one or more of insulin resistance, glucose intolerance, hypertension and dyslipidemia (para. bridging col.1-2, p.416), for the reasons set forth at p.8-9 of the previous Office Action dated February 25, 2008.

Note also, for the record, that present claim 29 defines Syndrome X as comprising more than one of the symptoms listed as (1)-(4), but does not actively require the treatment of more than one of these symptoms. Instant claim 29 only requires an increase in HDL cholesterol to treat Syndrome X. Therefore, since the subject of Russell et al. (i.e., the JCR:LA-corpulent rat) (1) does exhibit more than one of the conditions listed as (1)-(4) (i.e., the rat is both obese and exhibits insulin resistance and hyperlipidemia; see col.1, para.1, p.602), (2) is clearly disclosed as an animal model predictive for the same syndrome in humans (col.2, para.2, p.608) and (3) MEDICA 16 was shown to increase plasma HDL cholesterol levels (which, incidentally, is the only effect required for the actual *treatment* of Syndrome X as clearly recited in instant claim 29), the teachings of Russell et al. are clearly pertinent to the finding of obviousness of the treatment of Syndrome X as recited in the instant claims, despite Applicant's allegations to the contrary.

Sixthly, and lastly, Applicant's allegation that the statement by Russell et al. that the efficacy of MEDICA 16 in JCR:LA-corpulent rats suggests it use in the treatment of obese, insulin-resistant,

hypertriglyceridemic syndrome is unsupported because Russell et al. teaches that MEDICA 16 treatment did not have an effect on glucose tolerance or insulin response in the treated rats is unpersuasive. Russell et al. explicitly states that the treatment with MEDICA 16 has potential use in the treatment of obese, insulin-resistant, hypertriglyceridemic syndrome because of its clear and undisputed hypolipidemic effect. This hypolipidemic effect would still be reasonably effective for the treatment of such a syndrome because the amelioration of the hyperlipidemic symptoms would have been reasonably expected to improve the syndrome at least in part (though, admittedly, perhaps not via the amelioration of each and every single symptom found in such a syndrome). Thus, the allegation that the treatment would be ineffective for treating a syndrome comprising obesity, insulin resistance and hypertriglyceridemic symptoms is not a point well taken because MEDICA 16 would very clearly treat the hyperlipidemic symptoms and, therefore, would treat the syndrome. Applicant has not provided any evidence to the contrary that the efficacy of MEDICA 16 (1) would not still treat and improve this obese, insulin-resistant, hypertriglyceridemic syndrome because of its clear and undisputed hypolipidemic effect or (2) must ameliorate insulin resistance in order to be an effective treatment. The allegation that a pharmacologic agent must treat all of the symptoms or pathophysiological manifestations of a disorder in order to constitute an effective treatment for the disorder is a broad generalization that is unsupported by any evidence. The Office defers to the clear teachings of Russell et al. to support its position that the treatment of at least the hyperlipidemic symptoms of such a syndrome would be effective to treat the syndrome in general, absent any factual evidence to the contrary, and further in view of the fact that the instant claims also do not require any effect on insulin resistance or glucose intolerance.

For these reasons *supra*, and those previously made of record at p.5-10 of the Office Action dated February 25, 2008, rejection of claims 29-33, 36-39, 42, 44-46 and 49-52 remains proper.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 29-33 and 36-39 remain rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 and 8 of U.S. Patent No. 6,303,653, already of record, for the reasons of record set forth at p.10-12 of the previous Office Action dated February 25, 2008, of which said reasons are herein incorporated by reference.

Abandonment of U.S. Patent Application No. 11/894,588 renders the instant rejection of instant claims 29-33 and 36-39 over claims 10-12 and 17 of the '588 application **moot**.

Claims 29-33, 36-39, 42, 44-46 and 49-52 remain provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 8-12 and 16-29 of U.S. Patent Application No. 10/585,017, already of record, for the reasons of record set forth at p.12-13 of the previous Office Action dated February 25, 2008, of which said reasons are herein incorporated by reference.

*Response to Applicant's Arguments*

Applicant states that he traverses the Examiner's rejection and submits that, if this provisional

rejection is the only rejection remaining in the instant case, Applicant will consider filing a Terminal Disclaimer.

Insofar as the instant provisional rejection is not the only rejection that remains in the instant case, the rejection remains proper in the absence of a Terminal Disclaimer or any additional remarks by Applicant. Note also that not all of the instant double patenting rejections are provisional rejections.

***Conclusion***

Rejection of claims 29-33, 36-39, 42, 44-46 and 49-52 is proper.

Claims 34-35, 40-41, 47-48 and 53-54 remain **withdrawn** from consideration pursuant to 37 C.F.R. 1.142(b).

No claims of the present application are allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LESLIE A. ROYDS whose telephone number is (571)272-6096. The examiner can normally be reached on Monday-Friday (9:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on (571)-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie A. Royds/
Patent Examiner, Art Unit 1614

June 19, 2009

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614